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By: **Senator Astle**

Introduced and read first time: January 29, 2004

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Surplus Lines Brokers - Policy and Inspection Fees**

3 FOR the purpose of specifying a certain limit on the policy fee that a certain surplus  
4 lines broker may charge on a policy issued by an authorized insurer that was  
5 procured by a licensed producer to whom the surplus lines broker pays a  
6 commission; requiring the policy fee to be reasonably related to the cost of  
7 underwriting, issuing, processing, and servicing the policy by the surplus lines  
8 broker for the authorized insurer; authorizing a certain surplus lines broker to  
9 recoup from a prospective insured the actual cost of an inspection required for  
10 the placement of the insurance with an authorized insurer under certain  
11 circumstances; specifying that only one inspection fee may be charged to recoup  
12 the actual cost of an inspection for each policy or certificate of coverage issued by  
13 an authorized insurer; specifying that only one policy fee may be charged for  
14 each policy or certificate of coverage issued by an authorized insurer; and  
15 generally relating to policy and inspection fees charged by surplus lines brokers.

16 BY repealing and reenacting, with amendments,  
17 Article - Insurance  
18 Section 27-216(d)  
19 Annotated Code of Maryland  
20 (2002 Replacement Volume and 2003 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Insurance**

24 27-216.

25 (d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker  
26 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may  
27 charge a reasonable policy fee ON A POLICY ISSUED BY A SURPLUS LINES INSURER  
28 not exceeding:

1 (i) \$100 on each personal lines policy procured by a licensed  
2 insurance producer to whom the surplus lines broker pays a commission; or

3 (ii) \$250 on each commercial lines policy procured by a licensed  
4 insurance producer to whom the surplus lines broker pays a commission.

5 (2) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF  
6 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN  
7 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY CHARGE  
8 A REASONABLE POLICY FEE ON A POLICY ISSUED BY AN AUTHORIZED INSURER NOT  
9 EXCEEDING:

10 (I) \$100 ON EACH PERSONAL LINES POLICY PROCURED BY A  
11 LICENSED INSURANCE PRODUCER TO WHOM THE SURPLUS LINES BROKER PAYS A  
12 COMMISSION; OR

13 (II) \$250 ON EACH COMMERCIAL LINES POLICY PROCURED BY A  
14 LICENSED INSURANCE PRODUCER TO WHOM THE SURPLUS LINES BROKER PAYS A  
15 COMMISSION.

16 [(2)] (3) The policy fee charged in accordance with this subsection must  
17 be reasonably related to the cost of underwriting, issuing, processing, and servicing  
18 the policy by the surplus lines broker for the surplus lines insurer OR THE  
19 AUTHORIZED INSURER.

20 [(3)] (4) Notwithstanding subsection (a) of this section, a surplus lines  
21 broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article  
22 may recoup from the prospective insured the actual cost of an inspection required for  
23 the placement of surplus lines insurance WITH A SURPLUS LINES INSURER if:

24 (i) the inspection is required by the surplus lines insurer;

25 (ii) the cost of the inspection is actually incurred by the surplus  
26 lines broker and not retained by the surplus lines broker; and

27 (iii) the cost of the inspection is documented and verifiable.

28 (5) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF  
29 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN  
30 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY RECOUP  
31 FROM THE PROSPECTIVE INSURED THE ACTUAL COST OF AN INSPECTION REQUIRED  
32 FOR THE PLACEMENT OF INSURANCE WITH AN AUTHORIZED INSURER IF:

33 (I) THE INSPECTION IS REQUIRED BY THE AUTHORIZED INSURER;

34 (II) THE COST OF THE INSPECTION IS ACTUALLY INCURRED BY THE  
35 SURPLUS LINES BROKER AND NOT RETAINED BY THE SURPLUS LINES BROKER; AND

36 (III) THE COST OF THE INSPECTION IS DOCUMENTED AND  
37 VERIFIABLE.

- 1            [(4)]    (6)    Regardless of the number of insurers participating on a risk:
- 2                            (i)    only one inspection fee may be charged to recoup the actual cost  
3 of an inspection under paragraph [(3)] (4) OR (5) of this subsection for each policy or  
4 certificate of coverage; and
- 5                            (ii)   only one policy fee may be charged under paragraph (1) OR (2) of  
6 this subsection for each policy or certificate of coverage.
- 7            [(5)]    (7)    On a form approved by the Commissioner, the surplus lines  
8 broker shall:
- 9                            (i)    make a clear and conspicuous written disclosure of:
- 10                                            1.    any inspection fee;
- 11                                            2.    the total amount of the policy fee;
- 12                                            3.    the premium tax on the policy;
- 13                                            4.    any financial interest in the person performing the  
14 inspection, if applicable; and
- 15                                            5.    whether the surplus lines broker will receive  
16 compensation from the person that performs the inspection; and
- 17                            (ii)   notify the prospective insured of the option to obtain the  
18 inspection from another person who meets the requirements of or is approved by the  
19 surplus lines insurer.

20    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21    October 1, 2004.